

1 UNI TED STATES DI STRI CT COURT
2 SOUTHERN DI STRI CT OF OHIO
3 WESTERN DIVISI ON
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5 UNI TED STATES OF AMERI CA, :
6 Plaintiff, : CASE NO. 1:05-CR-137-2
7 -vs- : Initial Appearance
8 GARY MYLES, : Tuesday, October 31, 2006
9 Defendant. : 1:49 p.m.
10 Cincinnati, Ohio
11 - - -
12 TRANSCRI PT OF PROCEEDI NGS
13 BEFORE THE HONORABLE TIMOTHY S. BLACK, MAGISTRATE JUDGE
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15 For the Plaintiff: Timothy D. Oakley, Esq.
16 Assistant United States Attorney
17 Karl P. Kadon, III, Esq.
18 Special Assistant United States Attorney
19 221 East Fourth Street, Suite 400
20 Cincinnati, Ohio 45202
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22 For the Defendant: Richard Smith-Monahan, Esq.
23 Assistant Federal Public Defender
24 36 East Seventh Street, Suite 2000
25 Cincinnati, Ohio 45202
Court Reporter: Julie A. Wolfer, RDR, CRR
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PROCEEDINGS

(In open court at 1:49 p.m.)

THE COURT: Good afternoon, ladies and gentlemen.

Here on the record on the criminal docket. A number of matters set for initial appearance and arraignment.

Who appears on behalf of the United States, and what case do you wish to call first?

MR. OAKLEY: Good afternoon, Your Honor. Tim Oakley
for the United States.

THE COURT: Mr. Oakley.

MR. OAKLEY: The first matter on the list is for initial appearance on an indictment, the United States versus Gary Mylles.

THE COURT: Very well.

Mr. Miles will approach and join counsel at the podium.

Mr. Myles is present in the courtroom in the custody of the marshal in shackles.

We're here for the limited purpose of a proceeding called initial appearance.

Assistant Public Defender is standing with Mr. Myles.

Good afternoon, counsel.

MR. SMITH-MONAHAN: Good afternoon.

THE COURT: Initial appearance is a limited proceeding. I'm required to tell Mr. Miles his rights

1 You have the right to remain silent. I encourage you
2 to maintain that right. Anything you say could be used against
3 you. Let this experienced lawyer help you at this limited
4 proceeding.

5 You have a right to a lawyer at this proceeding and
6 all future proceedings. The Public Defender is with you today.
7 If you qualify for appointed counsel at the government's
8 expense due to limited finances, the Court will appoint counsel
9 to assist you.

10 In that regard, is there a financial affidavit being
11 proffered?

12 MR. SMITH-MONAHAN: I don't know. Pretrial -- it does
13 not appear Pretrial has had an opportunity yet to interview
14 these individuals.

15 THE COURT: Are you all going to be able to assist, if
16 he qualifies?

17 MR. SMITH-MONAHAN: Your Honor, we already represent
18 Kofi Cooper, a co-defendant in this matter, so we'll need to
19 find CJA attorneys for all of the defendants charged in this
20 case.

21 THE COURT: Very well.

22 As soon as I'm provided with a financial affidavit, if
23 he qualifies, the Court will appoint an attorney to represent
24 him in this case.

25 He's entitled to know the gist of the offenses

1 all I leged.

2 What is the gist of the offenses all I leged?

3 MR. OAKLEY: It's Count 1 of the indictment charging
4 Mr. Myl es wi th the rest of the individual s wi th conspi racy to
5 di stri bute heroin and cocaine.

6 THE COURT: Very well.

7 It's an indictment, a second superseding indictment.
8 There wi ll be no preliminary hearing.

9 We may well have exhausted what we're able to do today
10 at this limited proceeding.

11 Is there any other items from the defendant's
12 perspective that the Court has overlooked, counsel?

13 MR. SMI TH-MONAHAN: No, Your Honor. We would just
14 want to set a date for arraignment so I could consult wi th the
15 CJA attorney, make sure they' ll be available to --

16 THE COURT: Want to do arraignment today, it requires
17 me to ask if they've got a copy of the charging instrument,
18 whether they want it read, and what the plea is.

19 MR. SMI TH-MONAHAN: I've discussed the matter of
20 arraignment wi th each of these individuals, Your Honor, and
21 they would prefer to have an attorney wi th whom they can
22 consult before proceeding wi th arraignment. So wi th the
23 Court's permission, request to set a date for arraignment.

24 THE COURT: Very well.

25 In terms of detention, it's academic, perhaps.

1 MR. OAKLEY: Yes, sir.

2 THE COURT: He's serving a sentence, not eligible for
3 parole in 2024. Detention is moot. The defendant will be
4 detained.

5 Set it for initial -- or for arraignment on a date
6 specific. Does the Court wish to propose a date?

7 COURTROOM DEPUTY: Well, the next docket for Judge
8 Hogan is the 15th of November. Otherwise, we could set
9 something else.

10 THE COURT: The 15th of November work, or is that too
11 long from the defendant's perspective, counsel?

12 MR. SMITH-MONAHAN: That is two weeks from today, Your
13 Honor. I don't -- I don't believe that's too long. It's a
14 fairly complex case. I think that would give the CJA attorney
15 time to get involved and get some of the details.

16 THE COURT: Very well. Set it for arraignment on
17 November 15th at 1:30.

18 Is that right?

19 COURTROOM DEPUTY: Yes.

20 THE COURT: Before Magistrate Judge Hogan.

21 That may well dispose of what we can do.

22 You need to get the financial affidavit put together
23 so the Court can appoint counsel.

24 MR. SMITH-MONAHAN: Yes, sir.

25 THE COURT: He can step down, unless there's something

1 further.

2 MR. SMITH-MONAHAN: No, Your Honor.

3 THE COURT: Very well.

4 (Proceedings concluded at 1:53 p.m.)

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C E R T I F I C A T E

14 I, Julie A. Wolfer, the undersigned, do hereby
15 certify that the foregoing is a correct transcript from the
16 record of the proceedings in the above-entitled matter.

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18 s/Julie A. Wolfer
Julie A. Wolfer, RDR, CRR
19 Official Reporter

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